

Message Text

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-----065607 282007Z /46

R 261323Z JUN 78
FM SECSTATE WASHDC
TO AMEMBASSY LISBON

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C O R R E C T E D C O P Y (PORTION HARA 3 TEXT LINE 3 OMITTED)

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E.O. 11652:N/A

TAGS: EAIR, PO

SUBJECT:CIVAIR: TWA TO LAJES

REF: LISBON 4453

1. DEPT. CONCERNED THAT SILANCE NOT BE CONSTRUED AS
ACQUIENSENCE TO UNILATERAL CAPACITY CONTROL PRESENTED IN
DGCA LETTER. WHILE GOP HAS FREQUENTLY MAINTAINED THAT
THERE IS NO PROVISION OF AGREEMENT PROHIBITING UNILATERAL
ACTION ON CAPACITY, NEITHER IS THERE ANY EXISTING MECHANISM
FOR A PRIORI CHALLENGE TO CAPACITY SUCH AS CONTAINED
IN DGCA LETTER (PARA 5 REFTEL).

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2. GOP IS WELL AWARE THAT IN LENGTHY AND DETAILED
CONSULTATIONS IN 1966 AND 1969 UNDERSTANDINGS WERE
REACHED IN WHICH THE PORTUGUESE AGREED TO ACCEPT THE
USG POSITION ON SO-CALLED "BERMUDA" PRINCIPLES, I.E.,
EX POST FACTO CONSULTATIONS, NO UNILATERAL ACTION,
ETC. IN EXCHANGE FOR USG AGREEMENT TO A SPECIAL FIVE

YEAR DEVELOPMENTAL PERIOD FOR TAP. THIS IS EMBODIED IN PART (B) OF MAY 26, 1966 MEMORANDUM OF CONVERSATION.

3. THE KEY TO THE COMPROMISE WAS THE USG'S AGREEMENT TO ESTABLISH A HIGHLY UNUSUAL DEVELOPMENT PERIOD FOR TAP DURING WHICH CAPACITY WOULD BE CONTROLLED. IN RETURN, PORTUGUESE AUTHORITIES STATED THEY WERE PREPARED TO ACCEPT THE USG'S POSITION ON THE "BERMUDA" PRINCIPLES, INTER ALIA, THAT NEITHER SIDE WILL TAKE UNILATERAL ACTION AGAINST THE OPERATIONS OF AIRLINES OF THE OTHER SIDE. THE DEVELOPMENTAL PERIOD ENDED MARCH 31, 1973. IT IS THE USG'S VIEW THAT WITH THE TERMINATION OF THE FIVE YEAR DEVELOPMENTAL PERIOD THE OTHER PART OF THE COMPROMISE BECAME EFFECTIVE AND REMAINS IN EFFECT.

4. THEREFORE, DEPT. BELIEVES EMBASSY SHOULD RESERVE USG POSITION ON UNILATERAL CAPACITY RESTRICTION BY DGCA. EMBASSY REQUESTED TO NOTIFY MFA THAT IN REFERENCE TO DGCA LETTER OF JUNE 6, 1978, USG DOES NOT ACCEPT DGCA'S UNILATERAL IMPOSITION OF CAPACITY RESTRICTIONS WHICH ARE CONTRARY TO US INTERNATIONAL AVIATION POLICY, INIMICAL TO THE TRAVELLING PUBLIC'S BEST INTEREST AS WELL AS UNDERSTANDINGS REACHED DURING LENGTHY AND DETAILED CONSULTATIONS BETWEEN US AND PORTUGUESE DELEGATIONS IN 1966 AND 1969 AND CLEARLY EXPRESSED IN THE MEMORANDUM OF CONVERSATION OF MAY 26, 1966. THE USG RESERVES ITS LIMITED OFFICIAL USE

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POSITION ON THIS MATTER FOR FUTURE DISCUSSIONS.

5. IN CASE EMBASSY NO LONGER HAS COPY, DEPT. POUCHING MAY 26, 1966 MEMCON. VANCE

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